

Internal Revenue Service  
**memorandum**

CC:TL-N-785-88  
CLRobertson, Jr.

date: NOV 24 1987

to: Assistant District Counsel, Dallas CC:DAL

from: Acting Director, Tax Litigation Division CC:TL

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subject: [REDACTED], T.C. Docket  
No. [REDACTED]

This refers to your request for technical advice received on October 29, 1987, concerning the filing of a Notice of Objection to Petitioners' Motion for Award of Reasonable Litigation Costs in the above styled case.

After review and minor revisions, we agreed with the Notice of Objection prepared by your office and filed it with the Tax Court on [REDACTED]. In essence we have already responded to your request for technical advice by our review of this Notice of Objection. We are, therefore, attaching a copy of the Notice of Objection.

As can be seen in the Notice filed, we agreed that the Government's position was substantially justified under I.R.C. § 7430(c)(2)(A)(i) thus barring petitioners from qualification as a "prevailing party" under section 7430(c)(2) and recovery of litigation costs. The Government's position was substantially justified because District Counsel moved to dismiss the case for lack of jurisdiction once it learned that the statutory notice of deficiency issued to the petitioners was invalid.

Please contact Calder Robertson at FTS 566-3521 if you have any further questions on this case.

PATRICK J. DOWLING

By: Richard L. Carlisle  
RICHARD L. CARLISLE  
Acting Senior Technician  
Reviewer, Branch No. 1  
Tax Litigation Division

Attachment: 1  
Copy of Notice of Objection

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